

**ALCOHOLIC BEVERAGE CONTROL ACT -  
HOURS RESTRICTIONS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. McCoy**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Alcoholic Beverage Control Act to address restrictions related to offering, selling, serving, furnishing, or consuming an alcoholic beverage.

**Highlighted Provisions:**

This bill:

- modifies provisions related to hour restrictions and restaurant licensees;
- modifies provisions related to hour restrictions and limited restaurant licensees; and
- makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**32A-4-106**, as last amended by Laws of Utah 2008, Chapters 266 and 391

**32A-4-307**, as last amended by Laws of Utah 2008, Chapters 266 and 391

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **32A-4-106** is amended to read:



**32A-4-106. Operational restrictions.**

A person granted a restaurant liquor license and the employees and management personnel of the restaurant shall comply with the following conditions and requirements.

Failure to comply may result in a suspension or revocation of the restaurant liquor license or other disciplinary action taken against individual employees or management personnel.

(1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state store or package agency.

(b) Liquor purchased from a state store or package agency may be transported by the restaurant liquor licensee from the place of purchase to the licensed premises.

(c) Payment for liquor shall be made in accordance with rules established by the commission.

(2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

(a) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following restrictions:

(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;

(ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

(iii) the restaurant liquor licensee shall designate a location where flavorings are stored on the floor plan provided to the department; and

(iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

(b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish, drink, or dessert;

(c) a restaurant patron may have no more than 2.5 ounces of spirituous liquor at a time; and

(d) a restaurant patron may have no more than one spirituous liquor drink at a time

59 before the patron.

60 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to  
61 exceed five ounces per glass or individual portion.

62 (ii) An individual portion of wine may be served to a patron in more than one glass as  
63 long as the total amount of wine does not exceed five ounces.

64 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
65 Subsection (7)(e).

66 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price  
67 fixed by the commission to a table of four or more persons.

68 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price  
69 fixed by the commission to a table of less than four persons.

70 (c) A wine service may be performed and a service charge assessed by a restaurant  
71 liquor licensee as authorized by commission rule for wine purchased at the restaurant.

72 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a  
73 price fixed by the commission.

74 (b) A flavored malt beverage may be served in an original container not exceeding one  
75 liter at a price fixed by the commission.

76 (c) A service charge may be assessed by a restaurant liquor licensee as authorized by  
77 commission rule for heavy beer or a flavored malt beverage purchased at the restaurant.

78 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant liquor licensee may sell beer for  
79 on-premise consumption:

80 (A) in an open container; and

81 (B) on draft.

82 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
83 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
84 container that exceeds one liter.

85 (b) A restaurant liquor licensee that sells beer pursuant to Subsection (5)(a):

86 (i) may do so without obtaining a separate on-premise beer retailer license from the  
87 commission; and

88 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
89 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are

inconsistent with or less restrictive than the operational restrictions under this part.

(c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the restaurant's:

(i) state liquor license; and

(ii) alcoholic beverage license issued by the local authority.

(6) An alcoholic beverage may not be stored, served, or sold in a place other than as designated in the restaurant liquor licensee's application, unless the restaurant liquor licensee first applies for and receives approval from the department for a change of location within the restaurant.

(7) (a) (i) A patron may only make an alcoholic beverage purchase in the restaurant from and be served by a person employed, designated, and trained by the restaurant liquor licensee to sell and serve an alcoholic beverage.

(ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an employee of the restaurant or carries bottled wine onto the premises of the restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the patron or others at the patron's table.

(b) An alcoholic beverage shall be delivered by a server to the patron.

(c) An alcoholic beverage may only be consumed at the patron's table or counter.

(d) An alcoholic beverage may not be served to or consumed by a patron at a bar.

(e) A restaurant patron may have no more than two alcoholic beverages of any kind at a time before the patron, subject to the limitation in Subsection (2)(d).

(8) The liquor storage area shall remain locked at all times other than those hours and days when liquor sales are authorized by law.

(9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a restaurant of a restaurant liquor licensee on any day [~~after 12 midnight or before 12 noon~~] between the hours of 1 a.m. and 10 a.m.

(b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer Licenses, for on-premise beer licensees.

(10) An alcoholic beverage may not be sold except in connection with an order for food prepared, sold, and served at the restaurant.

(11) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

(a) minor;

(b) person actually, apparently, or obviously intoxicated;

(c) known habitual drunkard; or

(d) known interdicted person.

(12) (a) (i) Liquor may be sold only at a price fixed by the commission.

(ii) Liquor may not be sold at a discount price on any date or at any time.

(b) An alcoholic beverage may not be sold at less than the cost of the alcoholic beverage to the restaurant liquor licensee.

(c) An alcoholic beverage may not be sold at a special or reduced price that encourages over consumption or intoxication.

(d) An alcoholic beverage may not be sold at a special or reduced price for only certain hours of a restaurant liquor licensee's business day such as a "happy hour."

(e) More than one alcoholic beverage may not be sold or served for the price of a single alcoholic beverage.

(f) An indefinite or unlimited number of alcoholic beverages during a set period may not be sold or served for a fixed price.

(g) A restaurant liquor licensee may not engage in a public promotion involving or offering free an alcoholic beverage to the general public.

(13) An alcoholic beverage may not be purchased for a patron of a restaurant by:

(a) the restaurant liquor licensee; or

(b) an employee or agent of the restaurant liquor licensee.

(14) (a) A person may not bring onto the premises of a restaurant liquor licensee an alcoholic beverage for on-premise consumption, except a person may bring, subject to the discretion of the restaurant liquor licensee, bottled wine onto the premises of a restaurant liquor licensee for on-premise consumption.

(b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or an officer, manager, employee, or agent of the restaurant liquor licensee may not allow:

(i) a person to bring onto the restaurant premises an alcoholic beverage for on-premise consumption; or

(ii) consumption of an alcoholic beverage described in this Subsection (14) on the

restaurant liquor licensee's premises.

(c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server or other representative of the restaurant liquor licensee upon entering the restaurant.

(d) A wine service may be performed and a service charge assessed by a restaurant liquor licensee as authorized by commission rule for wine carried in by a patron.

(15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee or an employee of the restaurant liquor licensee may not permit a restaurant patron to carry from the restaurant premises an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic beverage.

(b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought onto the premises of the restaurant in accordance with Subsection (14), only if the bottle is recorked or recapped before removal.

(16) (a) A restaurant liquor licensee may not employ a minor to sell or dispense an alcoholic beverage.

(b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be employed to enter the sale at a cash register or other sales recording device.

(17) An employee of a restaurant liquor licensee, while on duty, may not:

(a) consume an alcoholic beverage; or

(b) be intoxicated.

(18) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic beverage menus including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(19) A restaurant liquor licensee shall display in a prominent place in the restaurant:

(a) the liquor license that is issued by the department;

(b) a list of the types and brand names of liquor being served through its calibrated metered dispensing system; and

(c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or

drugs is a serious crime that is prosecuted aggressively in Utah."

(20) A restaurant liquor licensee may not on the premises of the restaurant liquor licensee:

(a) engage in or permit any form of gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling;

(b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(21) (a) A restaurant liquor licensee shall maintain an expense ledger or record showing in detail:

(i) quarterly expenditures made separately for:

(A) malt or brewed beverages;

(B) set-ups;

(C) liquor;

(D) food; and

(E) all other items required by the department; and

(ii) sales made separately for:

(A) malt or brewed beverages;

(B) set-ups;

(C) food; and

(D) all other items required by the department.

(b) A restaurant liquor licensee shall keep a record required by Subsection (21)(a):

(i) in a form approved by the department; and

(ii) current for each three-month period.

(c) An expenditure shall be supported by:

(i) a delivery ticket;

(ii) an invoice;

(iii) a receipted bill;

- (iv) a canceled check;
- (v) a petty cash voucher; or
- (vi) other sustaining datum or memorandum.

(d) In addition to a ledger or record required under Subsection (21)(a), a restaurant liquor licensee shall maintain accounting and other records and documents as the department may require.

(e) A restaurant liquor licensee or person acting for the restaurant, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or other document of the restaurant that is required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or the department, or an official or employee of the commission or department, is subject to:

- (i) the suspension or revocation of the restaurant's liquor license; and
- (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

(22) (a) A restaurant liquor licensee may not close or cease operation for a period longer than 240 hours, unless:

- (i) the restaurant liquor licensee notifies the department in writing at least seven days before the day on which the restaurant liquor licensee closes or ceases operation; and
- (ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the restaurant liquor licensee shall immediately notify the department by telephone.

(c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

- (ii) The department may extend the initial period an additional 30 days upon:

- (A) written request of the restaurant liquor licensee; and
- (B) a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) A notice shall include:

- (i) the dates of closure or cessation of operation;
- (ii) the reason for the closure or cessation of operation; and
- (iii) the date on which the restaurant liquor licensee will reopen or resume operation.



(e) Failure of the restaurant liquor licensee to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic forfeiture of:

(i) the license; and

(ii) the unused portion of the license fee for the remainder of the license year effective immediately.

(f) Failure of the restaurant liquor licensee to reopen or resume operation by the approved date results in an automatic forfeiture of:

(i) the license; and

(ii) the unused portion of the license fee for the remainder of the license year.

(23) A restaurant liquor licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include mix for an alcoholic beverage or service charges.

(24) A restaurant liquor license may not be transferred from one location to another, without prior written approval of the commission.

(25) (a) A person, having been granted a restaurant liquor license may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license to another person whether for monetary gain or not.

(b) A restaurant liquor license has no monetary value for the purpose of any type of disposition.

(26) A server of an alcoholic beverage in a restaurant liquor licensee's establishment shall keep a written beverage tab for each table or group that orders or consumes an alcoholic beverage on the premises. The beverage tab shall list the type and amount of an alcoholic beverage ordered or consumed.

(27) A person's willingness to serve an alcoholic beverage may not be made a condition of employment as a server with a restaurant that has a restaurant liquor license.

(28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in

Section 58-37a-3.

Section 2. Section **32A-4-307** is amended to read:

**32A-4-307. Operational restrictions.**

A person granted a limited restaurant license and the employees and management personnel of the limited restaurant shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee except from a state store or package agency.

(b) Wine and heavy beer purchased from a state store or package agency may be transported by the limited restaurant licensee from the place of purchase to the licensed premises.

(c) Payment for wine and heavy beer shall be made in accordance with rules established by the commission.

(2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of the products listed in Subsection (2)(c) on the premises of the limited restaurant.

(b) A product listed in Subsection (2)(c) may not be on the premises of the limited restaurant except for use:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish, drink, or dessert.

(c) This Subsection (2) applies to:

(i) spirituous liquor; and

(ii) ~~on or after October 1, 2008,~~ a flavored malt beverage.

(3) (a) (i) Wine may be sold and served by the glass or an individual portion not to exceed five ounces per glass or individual portion.

(ii) An individual portion may be served to a patron in more than one glass as long as the total amount of wine does not exceed five ounces.

(iii) An individual portion of wine is considered to be one alcoholic beverage under Subsection (7)(e).

(b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

(ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price fixed by the commission to a table of less than four persons.

(c) A wine service may be performed and a service charge assessed by the limited restaurant licensee as authorized by commission rule for wine purchased at the limited restaurant.

(4) (a) Heavy beer may be served in an original container not exceeding one liter at a price fixed by the commission.

(b) A service charge may be assessed by the limited restaurant licensee as authorized by commission rule for heavy beer purchased at the limited restaurant.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for on-premise consumption:

(A) in an open container; and

(B) on draft.

(ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does not exceed two liters, except that beer may not be sold to an individual patron in a size of container that exceeds one liter.

(b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

(i) may do so without obtaining a separate on-premise beer retailer license from the commission; and

(ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are inconsistent with or less restrictive than the operational restrictions under this part.

(c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited restaurant's:

(i) limited restaurant license; and

(ii) alcoholic beverage license issued by the local authority.

(6) Wine, heavy beer, and beer may not be stored, served, or sold in a place other than as designated in the limited restaurant licensee's application, unless the limited restaurant licensee first applies for and receives approval from the department for a change of location within the limited restaurant.

(7) (a) (i) A patron may only make an alcoholic beverage purchase in a limited restaurant from and be served by a person employed, designated, and trained by the limited restaurant licensee to sell and serve an alcoholic beverage.

(ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an employee of the limited restaurant licensee or carries bottled wine onto the premises of the limited restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the patron or others at the patron's table.

(b) An alcoholic beverage shall be delivered by a server to the patron.

(c) An alcoholic beverage may only be consumed at the patron's table or counter.

(d) An alcoholic beverage may not be served to or consumed by a patron at a bar.

(e) A limited restaurant patron may have no more than two alcoholic beverages of any kind at a time before the patron.

(8) The alcoholic beverage storage area shall remain locked at all times other than those hours and days when alcoholic beverage sales are authorized by law.

(9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise furnished at a limited restaurant on any day [~~after 12 midnight or before 12 noon~~] between the hours of 1 a.m. and 10 a.m.

(b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer Licenses, for on-premise beer licensees.

(10) An alcoholic beverage may not be sold except in connection with an order of food prepared, sold, and served at the limited restaurant.

(11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to a:

(a) minor;

(b) person actually, apparently, or obviously intoxicated;

(c) known habitual drunkard; or

(d) known interdicted person.

(12) (a) (i) Wine and heavy beer may be sold only at a price fixed by the commission.

(ii) Wine and heavy beer may not be sold at a discount price on any date or at any time.

(b) An alcoholic beverage may not be sold at less than the cost of the alcoholic beverage to the limited restaurant licensee.

(c) An alcoholic beverage may not be sold at a special or reduced price that encourages

over consumption or intoxication.

(d) An alcoholic beverage may not be sold at a special or reduced price for only certain hours of the limited restaurant licensee's business day such as a "happy hour."

(e) More than one alcoholic beverage may not be sold or served for the price of a single alcoholic beverage.

(f) An indefinite or unlimited number of alcoholic beverages during a set period may not be sold or served for a fixed price.

(g) A limited restaurant licensee may not engage in a public promotion involving or offering free alcoholic beverages to the general public.

(13) An alcoholic beverage may not be purchased for a patron of the limited restaurant by:

(a) the limited restaurant licensee; or

(b) an employee or agent of the limited restaurant licensee.

(14) (a) A person may not bring onto the premises of a limited restaurant licensee an alcoholic beverage for on-premise consumption, except a person may bring, subject to the discretion of the limited restaurant licensee, bottled wine onto the premises of a limited restaurant licensee for on-premise consumption.

(b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or an officer, manager, employee, or agent of a limited restaurant licensee may not allow:

(i) a person to bring onto the limited restaurant premises an alcoholic beverage for on-premise consumption; or

(ii) consumption of an alcoholic beverage described in Subsection (14)(b)(i) on the limited restaurant licensee's premises.

(c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server or other representative of the limited restaurant licensee upon entering the limited restaurant.

(d) A wine service may be performed and a service charge assessed by the limited restaurant licensee as authorized by commission rule for wine carried in by a patron.

(15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and an employee of the limited restaurant licensee may not permit a restaurant patron to carry from the limited restaurant premises an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic beverage.

(b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed contents of a bottle of wine if before removal, the bottle is recorked or recapped.

(16) (a) A limited restaurant licensee may not employ a minor to sell or dispense an alcoholic beverage.

(b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be employed to enter the sale at a cash register or other sales recording device.

(17) An employee of a limited restaurant licensee, while on duty, may not:

(a) consume an alcoholic beverage; or

(b) be intoxicated.

(18) A charge or fee made in connection with the sale, service, or consumption of wine or heavy beer may be stated in food or alcoholic beverage menus including:

(a) a service charge; or

(b) a chilling fee.

(19) A limited restaurant licensee shall display in a prominent place in the restaurant:

(a) the limited restaurant license that is issued by the department; and

(b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(20) A limited restaurant licensee may not on the premises of the restaurant:

(a) engage in or permit any form of gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling;

(b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(21) (a) A limited restaurant licensee shall maintain an expense ledger or record showing in detail:

(i) quarterly expenditures made separately for:

(A) wine;

- 431 (B) heavy beer;  
432 (C) beer;  
433 (D) food; and  
434 (E) all other items required by the department; and  
435 (ii) sales made separately for:  
436 (A) wine;  
437 (B) heavy beer;  
438 (C) beer;  
439 (D) food; and  
440 (E) all other items required by the department.  
441 (b) A limited restaurant licensee shall keep a record required by Subsection (21)(a):  
442 (i) in a form approved by the department; and  
443 (ii) current for each three-month period.  
444 (c) An expenditure shall be supported by:  
445 (i) a delivery ticket;  
446 (ii) an invoice;  
447 (iii) a receipted bill;  
448 (iv) a canceled check;  
449 (v) a petty cash voucher; or  
450 (vi) other sustaining datum or memorandum.  
451 (d) In addition to the ledger or record maintained under Subsections (21)(a) through  
452 (c), a limited restaurant licensee shall maintain accounting and other records and documents as  
453 the department may require.  
454 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly  
455 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or  
456 other document of the limited restaurant that is required to be made, maintained, or preserved  
457 by this title or the rules of the commission for the purpose of deceiving the commission, the  
458 department, or an official or employee of the commission or department, is subject to:  
459 (i) the suspension or revocation of the limited restaurant's license; and  
460 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.  
461 (22) (a) A limited restaurant licensee may not close or cease operation for a period

longer than 240 hours, unless:

(i) the limited restaurant licensee notifies the department in writing at least seven days before the day on which the limited restaurant licensee closes or ceases operation; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the limited restaurant licensee shall immediately notify the department by telephone.

(c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period an additional 30 days upon:

(A) written request of the limited restaurant licensee; and

(B) a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) A notice required by Subsection (22)(a) shall include:

(i) the dates of closure or cessation of operation;

(ii) the reason for the closure or cessation of operation; and

(iii) the date on which the limited restaurant licensee will reopen or resume operation.

(e) Failure of the limited restaurant licensee to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic forfeiture of:

(i) the limited restaurant license; and

(ii) the unused portion of the license fee for the remainder of the license year effective immediately.

(f) Failure of the limited restaurant licensee to reopen or resume operation by the approved date results in an automatic forfeiture of:

(i) the limited restaurant license; and

(ii) the unused portion of the license fee for the remainder of the license year.

(23) A limited restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include service charges.

(24) A limited restaurant license may not be transferred from one location to another, without prior written approval of the commission.

(25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,



493 give, or attempt in any way to dispose of the limited restaurant license to another person  
494 whether for monetary gain or not.

495 (b) A limited restaurant license has no monetary value for the purpose of any type of  
496 disposition.

497 (26) (a) A server of wine, heavy beer, and beer in a limited restaurant licensee's  
498 establishment shall keep a written beverage tab for each table or group that orders or consumes  
499 an alcoholic beverage on the premises.

500 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an  
501 alcoholic beverage ordered or consumed.

502 (27) A limited restaurant licensee may not make a person's willingness to serve an  
503 alcoholic beverage a condition of employment as a server with the limited restaurant.

504 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may  
505 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
506 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

507 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
508 58-37-2; or

509 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
510 Section 58-37a-3.

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**Legislative Review Note**  
as of 2-4-09 11:54 AM

**Office of Legislative Research and General Counsel**

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**S.B. 168 - Alcoholic Beverage Control Act - Hours Restrictions**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations. Some additional yet undeterminable profit and sales tax may occur as result of longer restaurant hours.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Certain businesses may benefit from increased sales opportunities.